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APPLICANT(S): James G. Nadeau et al.

FEB 12 1999

SERIAL NO.: 09/082,247

GROUP: 1634 MATRIX CUSTOMER
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FILING DATE: May 20, 1998

EXAMINER: S. Houtteman

FOR: DETECTION OF NUCLEIC ACID AMPLIFICATION

RESPONSE TO PROTEST

Assistant Commissioner for Patents
Washington, D.C. 20231

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Sir:

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ON: February 2, 1999
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BY: Mary Lou Kittren
(NAME)

Mary Lou Kittren 2-2-99
(SIGNATURE) (DATE)

PRELIMINARY STATEMENT

This document is filed to address issues raised in a Protest filed on December 31, 1998 (the "Protest") against the present reissue application.

The Protest was filed by Robin L. Teskin of Burns, Doane, Swecker & Mathis, L.L.P. (the "Protestor") on behalf of Georgetown University Medical Center ("GUMC"). (See, Exhibit A as evidence of GUMC participation). The Protest raises issues of: (1) claim invalidity under 35 U.S.C. §112, first paragraph (enablement); (2) claim invalidation under 35 U.S.C. §102 (anticipation); and (3) deceptive intention by the undersigned, the Applicants and the Assignee (hereinafter, collectively, the "Reissue Parties") of the present reissue application.

The Reissue Parties respectfully submit that the claims of the present reissue application are fully enabled, and are not anticipated by prior art. Specific comments regarding the enablement and anticipation issues are being deferred until such comment is requested by the Examiner. However, because the deceptive intention issue is necessarily based on the Protestor's inference of intent, this Response will refute the allegation of deceptive intention. It is stated

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